



UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR
INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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WAK
Paper no. 8

In re: Oussoren et al.

: DECISION

Serial no. 09/430,063

: ON

For: UNITARY FILTER CARTRIDGE

: PETITION

:

This is a decision on the PETITION UNDER 37 C.F.R. 1.181, filed August 27, 2001 which is before the Director of Technology Center 1700 for decision. The petitioner requests expungement of a statement rendered by the Examiner in the Final Office Action dated May 22, 2001.

DECISION

After a careful review of the application record and the petitioner's argument, it is concluded that the petitioner's request to expunge the Examiner's statement is denied in view of the statements made of record in this decision and the issuing of a subsequent Office action not containing the offensive language.

MPEP 707.07(d) indicates, "Everything of a personal nature must be avoided". The Office apologizes for the Examiners inappropriate comments made in the office action of May 22, 2001 (paper no.5). Furthermore, the Examiner's statement about infringement was improper. The Examiner has no legal authority to render an infringement opinion in connection with the examination of a patent application.

It is noted that petitioner in the response filed March 20, 2001 (paper no.4) raised the issue of infringement and, while requesting expungement of the Examiner's remarks on infringement, has not requested expungement of petitioner's remarks. A question of infringement is governed by 35 U.S.C. 271-297 and decided in Federal Court.

In view of the above statements, a new office action will be issued by the Examiner, which action will not contain the offensive language.

The Petition is Granted-in-Part to the extent that a new office action will be issued not containing the offensive language and Denied-in-Part in view of the fact that the office action of May 22, 2001 will not be expunged.

The application is returned to the Examiner for the reissuing of an office action in accordance with this decision.



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